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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

U.S. Ethernet Innovations, LLC,
Plaintiff,

NO. C 10-03724 JW
NO. C 10-05254 JW
NO. C 10-03481 JW

v.

**ORDER VACATING CASE
MANAGEMENT CONFERENCE;
SETTING MARKMAN HEARING**

Acer, Inc. et al.,

_____ /

AT&T, Inc., et al.,

Defendants.

_____ /

Zions Bancorporation, et al.,

Plaintiffs,

v.

U.S. Ethernet Innovations, LLC,

Defendant.

_____ /

This matter is scheduled for a Case Management Conference on April 9, 2012. On March 30, 2012, the parties filed a Joint Case Management Statement. (hereafter, "Statement," Docket Item No. 601 in No. C 10-03724 JW.) In the Statement, Defendants contend that the Court should conduct a Markman hearing to address the claim construction issues raised in the parties'

1 supplemental claim construction briefing.¹ (Id. at 7-8.) In addition, Defendants contend that the
2 parties should also provide claim construction briefing for the following three terms: (1) “medium
3 access task”; (2) “frame transfer task”; and (3) “host interface means.” (Id. at 8.) In particular,
4 Defendants contend that these terms involve “many of the same issues that the Court is considering”
5 in the course of construing certain terms that were the subject of the supplemental claim construction
6 briefing. (Id.) In response, Plaintiff contends that there is “little justification” for a Markman
7 hearing on the issues raised in the parties’ supplemental claim construction briefing, and that
8 construction of the three terms proposed by Defendants for additional claim construction briefing
9 “will not serve to further enlighten the Court’s consideration about how best to move this case
10 forward.” (Id. at 3-4.) Instead, Plaintiff contends that this matter should “move forward toward a
11 merits determination” at this time. (Id. at 4.)

12 Upon review, the Court finds that it would benefit from a Markman hearing on the
13 supplemental claim construction briefing that has been filed by the parties. Further, the Court finds
14 good cause to examine whether construction of the additional terms—namely, “medium access task,”
15 “frame transfer task” and “host interface means”—is necessary in resolving these cases. Thus, in
16 light of the pending claim construction proceedings, the Court finds that a Case Management
17 Conference would be premature at this time. Accordingly, the Court VACATES the April 9
18 Conference and ORDERS as follows:

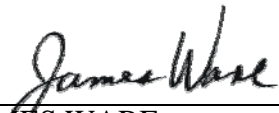
- 19 (1) On or before **April 18, 2012**, the parties shall file supplemental simultaneous claim
20 construction briefs for the following three terms: (a) “medium access task”; (b)
21 “frame transfer task”; and (c) “host interface means.” On or before **April 20, 2012**,
22 the parties shall deliver two chambers copies of the supplemental briefs in three-ring
23 binders.

24
25 ¹ On January 31, 2012, the Court issued its First Claim Construction Order in this case, in
26 which, *inter alia*, it required the parties to file supplemental claim construction briefing regarding
27 certain terms. (See First Claim Construction Order, Docket Item No. 586 in No. C 10-03724 JW.) On
28 March 15, 2012, the parties filed their supplemental claim construction briefing pursuant to the Court’s
First Claim Construction Order. (See Docket Item Nos. 596, 597 in No. C 10-03724 JW.)

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(2) The Court sets **May 3, 2012 at 9 a.m.** for a Markman hearing. Each side will have ninety (90) minutes to present its argument. The Markman hearing shall address both the supplemental claim construction briefing submitted by the parties on March 15, 2012, as well as the additional claim construction briefing discussed in this Order.

Dated: April 2, 2012



JAMES WARE
United States District Chief Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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Dated: April 2, 2012

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Susan Imbriani
Courtroom Deputy